

Message Text

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AMEMBASSY BUDAPEST PRIORITY
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C O N F I D E N T I A L SECTION 1 OF 3 VIENNA 2608

BUDAPEST FOR HARTMAN

E.O. 11652: GDS
TAGS: PFOR, CY, TU, GR, AU
SUBJECT: CYPRUS NEGOTIATIONS IN VEINNA: GREEK-CYPRIOT RESPONSE
ON TURKISH-CYPRIOT CONSTITUTIONAL PROPOSALS

1. GREEK CYPRIOT NEGOTIATOR PAPADOPOULOS SENT U.S. OBSERVER
TEXT OF THE CONFIDENTIAL STATEMENT HE HAD MADE AT SATURDAY
SESSION, APRIL 2. THE STATEMENT WAS INTENDED AS AN INITIAL
RESPONSE TO TURKISH CYPRIOT CONSTITUTIONAL PROPOSALS BUT IT
EFFECTIVELY PINPOINTS THE KEY AREAS THE GREEKS FIND MOST
OBJECTIONABLE AND ON WHICH THEY CONCENTRATE THEIR FIRE,
AS DISCUSSIONS CONTINUE IN VIENNA THIS WEEK. THE GREEK
CYPRIOT STATEMENT IS, IN FACT, AN EFFECTIVE CRITIQUE OF THE
TURKISH CYPRIOT ANALYSIS OF THE TURKISH CYPRIOT PROPOSALS
AND SHOULD BE USEFUL TO WASHINGTON AS IT EVALUATES THE
CONSTITUTIONAL ISSUE IN THE WEEKS AHEAD.
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2. PAPADOPOULOS; STATEMENT READS AS FOLLOWS:

BEGIN TEXT:

WE HAVE STUDIED THE PROPOSALS MADE BY THE TURKISH
CYPRIOT SIDE ON THE CONSTITUTIONAL STRUCTURE AND THE POWERS

AND FUNCTIONS OF THE FEDERAL GOVERNMENT. IN MY INTERVENTION I WILL REFER TO THE "CONSTITUTIONAL SEPCT" AS COVERING ALL THESE.

MY FIRST REACTION IS THAT THESE ARE NOT SUBSTANTIVE "CONSTITUTIONAL PROPOSALS".

FURTHER MORE, THEY ARE CONTRARY TO, AND INCOMPATIBLE WITH, THE GUIDELINES OF 12.2.1977, ESPECIALLY THOSE WHICH REQUIRE THE UNITY OF THE COUNTRY.

MUCH AS I HAVE SEARCHED THESE PROPOSALS, I HAVE NOT BEEN ABLE TO FIND THE FEDERAL STATE EXCEPT ONLY IN NAME. I HAVE ONLY BEEN ABLE TO FIND TWO FEDERATED STATES.

ALL THE ATTRIBUTES OF A FEDERAL STATE ARE EITHER MISSING OR ARE DENIED TO THE FEDERATION. I SHALL CITE SOME POINTS BY WAY OF EXAMPLES:

THERE ARE NO CLEAR PROPOSALS OF WHAT THE CONSTITUTION WILL CONTAIN ABOUT THE RIGHTS OR OBLIGATIONS OF CITIZENS. THERE ARE NO PROVISIONS AT ALL AS TO THE RELATIONSHIP BETWEEN THE CITIZENS AND THE FEDERAL STATE.

THERE IS NO PROVISION WITH REGARD TO SAFEGUARDING THE HUMAN RIGHTS BY THE FEDERAL GOVERNMENT.

THERE ARE NO PROVISIONS AS TO HOW ANY OF THE ORGANS OF THE FEDERAL STATE WILL BE ELECTED OR APPOINTED.

THERE IS ONLY REFERENCE TO TWO PRESIDENTS; THE RELEVANT PROVISION SIMPLY ENVISAGES A "DICTATORSHIP" BY TWO PERSONS WHO ARE RESPONSIBLE ONLY TO THE COMPONENT PARTS OF THE FEDERAL STATE AND NOT TO ITS CITIZENS.

THIS LACK OF RELATIONSHIP OF THE CITIZENS WITH THE FEDERAL STATE RUNS THROUGHOUT THE WHOLE PROPOSALS.

NOWHERE IS THERE ANY EFFECTIVE PROVISION FOR THE CONFIDENTIAL

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EXISTENCE OF A CENTRAL GOVERNMENT OF THE FEDERAL STATE. EVEN PASSPORTS ARE ISSUED BY THE FEDERATED STATES, THOUGHT IT IS STATED (BY A HANDWRITTEN NOTE ON THE PROPOSALS) THAT THE LEGISLATION CONCERNING CITIZENSHIP SHALL BE MADE AT THE FEDERAL LEVEL.

THIS IMPLIES A SEPARATE INTERNATIONAL LEGAL PERSONALITY FOR EACH OF THE FEDERATED STATES AND, THEREFORE, THE CREATION OF TWO SEPARATE STATES.

I CONSIDER THE PROPOSALS AS BEING CONTRARY TO THE GUIDELINES, NOT ONLY BECAUSE THEY DO NOT PROVIDE FOR SETTING UP OF A FEDERATION, NOT ONLY BECAUSE THEY FAIL TO ENSURE UNITY, BUT, ALSO, BECAUSE THERE IS AN EXPRES ENDEAVOUR TO DESTROY THE UNITY OF THE COUNTRY.

ONE OF THE INDESPENSABLE ATTRIBUTES OF A STATE, FEDERAL, BI-COMMUNAL OR OTHERWISE, IS SOVEREIGNTY AND, YET, IN THE PROPOSALS AT (PAGE 2, PART III, PARAGRAPH 2) IT IS STATED THAT "THE SOVEREIGNTY SHALL CONTINUE TO BE SHARED EQUALLY BY THE TWO NATIONAL COMMUNITIES AS CO-FOUNDERS OF THE REPUBLIC". THE SOVEREIGNTY IS ONE AND INDIVISIBLE AND

SOVEREIGNTY MUST BE VESTED IN THE FEDERAL STATE. THIS IS AN ILLUSTRATION OF WHAT I MEAN WHEN I SAY THAT A FEDERAL STATE DOES NOT EXIST IN THE PROPOSALS.

THE PROPOSALS CONTAIN A NUMBER OF HEADINGS AS TO THE POWERS AND FUNCTIONS OF THE CENTRAL FEDERAL GOVERNMENT, WHICH HEADINGS CORRESPOND, MORE OR LESS, TO THE POWERS AND FUNCTIONS WHICH A NORMAL CENTRAL FEDERAL GOVERNEMENT SHOULD HAVE, BUT IN THE TURKISH CYPRIOT PROPOSALS THESE POWERS AND FUNCTIONS ARE THERE ONLY IN NAME. THE ONLY POWERS AND FUNCTIONS WHICH ARE GIVEN TO THE FEDERAL GOVERNMENT ARE FOREIGN AFFAIRS AND EXTERNAL DEFENCE (PAGE 5, PART IV, PARAGRAPHS 1 AND 2). BUT EVEN THESE ARE NULLIFIED BY THE PROVISIONS AS TO SEPARATE LEGISLATIVE MAJORITIES (PAGE 7, PAR VI, PARAGRAPH 2(B)) AND THE FACT THAT THE TWO PRESIDENTS MUST ALWAYS ACT JOINTLY (PAGE 7, PAR VI, PARAGRAPH 2(A)). FURTHERMORE, PROVISION IS MADE FOR TWO SEPARATE LAND FORCES OF THE TWO FEDERATED STATES.

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THERE IS NO PROVISION AS TO HOW ANY IMPASSE, WHICH MAY OCCUR IN CASES WHERE THERE EXISTS PARTICIPATION ON THE BASIS

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OF EQUALITY OF THE TWO COMMUNITIES, IS TO BE RESOLVED, EVEN IN RELATION TO URGENT MATTERS; AND EQUALITY OF PARTICIPATION RUNS THROUGHOUT THE PROPOSALS. IT APPLIES TO THE TWO PRESIDENTS AND, AS NO INDICATION IS GIVEN AS TO HOW THEIR INABILITY TO AGREE IS TO BE RESOLVED, IT WILL LEAD TO NO ACTION WHATSOEVER.

THE DESTRUCTION OF UNITY AND A PRONOUNCED ATTITUDE TO SET UP TWO REALLY SEPARATE STATES, IS, ALSO, STRIKINGLY ILLUSTRATED BY THE LACK OF UNITY ON ECONOMIC MATTERS. THERE IS NO PROVISION AS TO ECONOMIC PLANNING OR ECONOMIC ACTIVITY. THIS DIVISION MAY BE CATASTROPHIC.

ONE INSTANCE OF THE DETRIMENTAL CONSEQUENCES OF SUCH DIVISION RELATES TO THE FISCAL AND MONETARY POLICY, WHICH, IF DIVIDED, MIGHT LEAD TO THE RESULT THAT THE FISCAL POLICY MAY RUN CONTRARY TO THE MONETARY POLICY, AND VICE VERSA; ONE BEING INFLATIONARY AND THE OTHER BEING ANTI- INFLATIONARY AND SO MUTUALLY DESTRUCTIVE.

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THE PROPOSALS PROVIDE FOR TWO SEPARATE ISSUING BANKS, TERMED "RESERVE BANKS" (PAGE 5, PART IV, PARAGRAPH 3). A UNIFORM CURRENCY IS PROVIDED FOR, "CO-ORDINATION" BEING ENSURED BY A FEDERAL RESERVE BOARD COMPOSED ON AN EQUALITY BASIS. THOUGH THIS MAY, AT FIRST SIGHT, APPEAR TO BE CO-ORDINATION, YET, IT MAY OPERATE IN A CATASTROPHIC MANNER, BECAUSE THE STABILITY OF THE STATE DEPENDS ON RESERVES, AND, UNDER THE PROPOSALS, EITHER OF THE TWO FEDERATED STATES MIGHT OVER-EXPEND ITSELF AT THE EXPENSE OF THE OTHER AND IF THERE IS COMPETITION BETWEEN THE TWO AS TO WHICH IS GOING TO SPEND MORE IN FINANCING DEVELOPMENT AND RESULT WILL BE CATASTROPHE. IT IS IMPOSSIBLE TO DIVORCE THE FISCAL POLICY FROM THE MONETARY POLICY. THE DIVISION IS, THEREFORE, NOT ONLY VERY PRONOUNCED, BUT IT IS BOTH UNORTHODOX AND CALAMITOUS.

THERE IS NO PROVISION IN THE PROPOSALS WITH REGARD TO NORMAL SOURCES OF REVENUE OF THE FEDERAL STATE. IT IS ONLY PROVIDED THAT "CHARGES AND FEES" DERIVED FROM SERVICES RENDERED BY ORGANS OF THE CENTRAL FEDERAL GOVERNMENT SHALL ACCRUE TO THE FEDERAL BUDGET (PAGE 5, PART IV PARAGRAPH 4(B)). THE FEDERAL GOVERNMENT WILL, THEREFORE HAVE NO SUFFICIENT REVENUE WITH WHICH TO MAKE PROVISION FOR THE WELFARE OF THE CITIZENS. YET IN EVERY FEDERAL STATE THE CENTRAL FEDERAL GOVERNMENT HAS POWER TO LEVY DIRECT AND INDIRECT TAXES. THIS IS ONE FURTHER INDICATION OF THE NON-EXISTENCE OF THE FEDERAL STATE.

PROVISION IS MADE THAT DEFICITS IN THE FEDERAL BUDGET SHALL BE MET BY CONTRIBUTIONS FROM THE BUDGETS OF THE

FEDERATED STATES (PAGE 5, PART IV, PARAGRAPH 4(C)). THIS IS ANOTHER INDICATION THAT THE TURKISH CYPRIOT PROPOSALS ENVISAGE TWO REALLY SEPARATE STATES. IN NORMAL FEDERAL CONSTITUTIONS IT IS THE OPPOSITE THAT HAPPENS, THAT IS TO SAY IT IS THE CENTRAL FEDERAL GOVERNMENT THAT COVERS DEFICITS IN THE BUDGETS OF THE COMPONENT PARTS.

A PROVISION WHICH DEMONSTRATES IN A STRIKING MANNER THE EXISTENCE OF TWO SEPARATE STATES IS THE ONE RELATING
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TO CUSTOMS (PAGE 5, PART IV, PARAGRAPH 5). THE PROPOSALS PROVIDE THAT THERE WILL BE SEPARATE LEVELS OF CUSTOMS DUTIES. THIS MEANS THAT EACH FEDERATED STATE CAN PROVIDE DIFFERENT RATES OF CUSTOMS TARIFFS WITH THE RESULT THAT CYPRUS WILL BECOME A SMUGGLERS' PARADISE, WITH PEOPLE TRYING TO SMUGGLE FROM ONE FEDERATED STATE INTO THE OTHER THOSE ARTICLES WHICH ARE MORE LIGHTLY TAXED IN ONE STATE THAN IN THE OTHER. TO PREVENT SUCH SMUGGLING IT WILL BECOME NECESSARY TO ESTABLISH BORDERS AND THAT, OF COURSE, MEANS TOTAL DIVISION OF THE TWO SEPARATE STATES; AND CO-ORDINATION CANNOT REMEDY THIS.

THERE ARE MANY OTHER INSTANCES WHERE BASIC ATTRIBUTES OF A FEDERAL STATE ARE LACKING: FOR INSTANCE, POSTAL AND TELECOMMUNICATION SERVICES (PAGE 6, PART IV, PARAGRAPH 6). EACH FEDERATED STATE WILL BE RESPONSIBLE FOR ITS OWN EXTERNAL POSTAL AND TELECOMMUNICATION SERVICES. THIS WOULD, PROBABLY, EVEN MEAN THE ISSUE OF DIFFERENT STAMPS BY EACH STATE AND CONTROL OF ITS OWN EXTERNAL TELECOMMUNICATION SERVICES, CONTRARY TO THE BASIC NEED FOR AN INTERNATIONAL LEGAL PERSONALITY OF THE FEDERAL STATE, AND ALSO, CONTRARY TO ALL KNOWN SYSTEMS OF FEDERALISM.

WHEREAS IN MATTERS SUCH AS PUBLIC HEALTH AND GENERAL SANITARY PROTECTION (PAGE 6, PART IV, PARAGRAPH 8), THERE IS PROVISION FOR CO-ORDINATION, YET IN MATTERS SUCH AS NATURAL DISASTERS THERE IS PROVISION MERELY FOR ORGANIZATIONS OF AN ADVISORY NATURE (PAGE 6, PART IV, PARAGRAPH 10). THERE WILL BE NO AUTHORITY IN THE FEDERAL STATE TO TAKE IMMEDIATE AND EFFECTIVE MEASURES WITH REGARD TO CATASTROPHES, EVEN THOUGH NEITHER NATURAL DISASTERS, NOR EPIDEMICS KNOW MUCH ABOUT BORDERS. FURTHER MORE, SUCH DISASTERS MUST BE DEALT WITH URGENTLY AND ADVISORY PROCEDURES WOULD BE TOTALLY INEFFECTIVE.

EVEN MINOR MATTERS, SUCH AS STANDARDS OF WEIGHTS AND MEASURES, PATENTS, TRADE MARKS, COPYRIGHTS, AND METEOROLOGICAL SERVICES (PAGE 9, PART IV, PARAGRAPH 9) ARE TO BE REGULATED BY CO-ORDINATION AND THERE IS NO PROVISION AS TO WHAT IS TO
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HAPPEN IF THERE IS A DEADLOCK. IT IS POSSIBLE THAT COMPLETELY DIFFERENT STANDARDS MIGHT EVENTUALLY BE ADOPTED BY THE FEDERATED STATES-ANOTHER INSTANCE OF THE CREATION OF TWO DISTINCTLY SEPARATE STATES.

THE ABOVE EXAMPLES ARE CITED AS AN ILLUSTRATION OF MY ARGUMENT THAT ALL THE FUNCTIONS OF THE CENTRAL FEDERAL GOVERNMENT ARE ONLY ENUMERATED IN NAME UNDER THE HEADING "POWERS AND FUNCTIONS OF THE FEDERAL GOVERNMENT" WHEREAS, IN SUBSTANCE, SUCH POWERS AND FUNCTIONS ARE GIVEN O, AND ARE AT THE MERCY OF, THE SEPARATE STATES.

A MATTER WHICH I CANNOT FAIL BUT HIGHLIGHT IS THE FIELD OF HUMAN RIGHTS: THERE IS NO PROVISION FOR THE UNIFORM PROTECTION BY THE FEDERAL CONSTITUTION OF HUMAN RIGHTS THROUGHOUT THE REPUBLIC. THERE IS NO MODERN CONSTITUTION OF ANY KIND OF STATE WHICH DOES NOT PROVIDE PROTECTION BY THE FEDERAL GOVERNMENT OF THE HUMAN RIGHTS OF THE INDIVIDUAL. YET, THE PROPOSALS OF THE TURKISH CYPRIOT SIDE CONTAIN A PROVISION THAT THE FEDERATED STATES ARE, IN EFFECT, ENTITLED TO REGULATE HUMAN RIGHTS WITHIN THEIR RESPECTIVE REGIONS, SUBJECT TO THE EXPFIENCIES OF THE VIABILITY AND SCURITY OF EACH REGION (PAGE 3, PART III, PARAGRAPH 9). THIS WOULD LEAD TO DIFFERENT LEVELS OF PROTECTION, IT WOULD, FURTHERMORE, BE CONTRARY TO CONVENTIONS ON HUMAN RIGHTS RATIFIED BY THE REPUBLIC OF CYPRUS. THIS MATTER IS NOT A THEORETICAL DANGER BECAUSE ALREADY IN THE "CONSTITUTION" OF THE "TURKISH FEDERATED STATE OF CYPRUS" THERE ARE DIFFERENT PROVISIONS FOR THE PROTECTION OF HUMAN RIGHTS OF TURKISH CITIZENS AND OF OTHER PERSONS LIVING THERE.

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ANOTHER POINT ILLUSTRATING REGULATION OF RIGHTS ON A SEPARATIST BASIS IS THE PROVISION FOR PROPRIETARY RIGHTS AND CLAIMS (PAGE 4, PART III, PARAGRAPH 13). THIS WOULD ALLOW DIFFERENT TREATMENT BY THE FEDERATED STATES OF SUCH CLAIMS, THUS POSSIBLY PERMITTING ARBITRARY CONFISCATION OF PROPERTY.

WHAT IS A REALLY ASTOUNDING PROPOSITION, AND ONE WHICH IS TOTALLY UNPRECEDENTED, IS THE PROVISION RELATING TO THE IMPLEMENTATION OF FUNDAMENTAL RIGHTS AND LIBERTIES WITHIN THE FEDERATED STATES (PAGE 8, PAR VII) WHICH READS AS FOLLOWS:

"ALL FUNDAMENTAL RIGHTS AND LIBERTIES SHALL BE OBSERVED IN PRINCIPLE WITH THE CONDITION THAT SUCH OBSERVANCE SHALL BE SUBJECT TO THE LAWS AND REGULATIONS OF THE FEDERATED STATE CONCERNED AND SHALL NOT UPSET THE TERRITORIAL INTEGRITY AND POPULATION HOMOGENITY OF
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THE TURKISH FEDERATED STATE OF CYPRUS."

UNDER THIS PROVISION THE PROTECTION OF THE FUNDAMENTAL RIGHTS AND LIBERTIES IS MADE SUBJECT TO THE PROTECTION OF THE TERRITORIAL INTEGRITY AND POPULATION HOMOGENITY OF THE TURKISH FEDERATED STATE OF CYPRUS. THIS IS AN AB INITIO DENIAL OF THE THREE BASIC PRINCIPLES ENUNCIATED UNDER "GUIDLINE THREE".

IN FACT THERE IS GENERALLY A TOTAL DIVISION, A FORM OF BI-FORCATION IN ALL RESPECTS, WITHOUT ANY ELEMENTS OF UNITY OF THE COUNTRY AS PROVIDED IN THE GUIDELINES.

THE OVERRIDING CONSIDERATION IS THAT THERE DOES NOT EXIST A FEDERAL STATE WHICH HAS ANY REAL ROLE TO PLAY OR ANY SUBSTANCE AT ALL. THE PROPOSAL IS SIMPLY FOR TWO SEPARATE STATES WHICH WILL ONLY COME TOGETHER IN TWO FIELDS - FOREIGN AFFAIRS AND EXTERNAL DEFENCE - WHERE, AS I HAVE ALREADY MENTIONED, THE RELEVANT POWERS ARE NULLIFIED BY SPECIAL PROVISIONS.

THE TURKISH CYPRIOT PROPOSALS AS A WHOLE ARE BASED ON THE ERRONEOUS PREMISE THAT TWO INDEPENDENT STATES NOW EXIST IN CYPRUS WHICH WILL YIELD POWERS TO THE FEDERATION, WHEREAS THERE EXISTS IN FACT ONE UNITARY REPUBLIC OF CYPRUS WHICH IS TO BE TRANSFORMED INTO A FEDERATION. FROM THIS WRONG

PREMISE THERE ALSO FLOWS THE PROPOSAL OF THE TURKISH CYPRIOT SIDE THAT THE RESIDUE OF POWERS SHALL VEST IN THE FEDERATED STATES.

I SHALL NOT AT THIS STAGE ELABORATE ON THE OBVIOUS DISADVANTAGES OF THE PROVISIONS FOR EQUAL PARTICIPATION OF THE TWO COMMUNITIES IN EVERY SINGLE FUNCTION. THIS IS IN CONTRADISTINCTION TO THE POPULATION RATIO AND ALTHOUGH ONE COULD ENVISAGE CERTAIN AREAS WHERE THE DESIRES OF THE TWO FEDERATED STATES SHOULD BE TAKEN INTO CONSIDERATION, THIS CANNOT BE SO IN ALL MATTERS.

AS I HAVE TRIED TO DEMONSTRATE, THE PROPOSALS ARE CONTRARY TO THE GUIDELINES, UNFAIR AND CONTRARY TO THE SETTING UP OF A FEDERAL STATE ON THE BASIS OF DEMOCRATIC CONFIDENTIAL

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